



PLANNING COMMISSION MEETING STAFF REPORT APRIL 13, 2006

Project: MINJIAN HAND HEALING INSTITUTE- (PLN2006-00193)

Proposal: To consider a Conditional Use Permit application for the relocation of a massage training school to a 1,473 square foot tenant space located at Hastings Plaza.

Recommendation: Approve, based on findings and subject to conditions.

Location: 39055 Hastings Street in the Central Planning Area.
APN 501-1130-026-00
(See aerial photo next page)

Area: 26,562 square foot existing building on a 1.22-acre lot

People: Jade Li, Applicant
Nick Arvanitidis, Owner
Gus Gonzalez, Staff Planner (510) 494-4452; ggonzalez@ci.fremont.ca.us

Environmental Review: The project is categorically exempt from environmental review per CEQA Guidelines Section 15301 (Existing Facilities).

General Plan: CBD, Central Business District

Zoning: C-B-D, Central Business District

EXECUTIVE SUMMARY:

The applicant is requesting approval of a Conditional Use Permit for the relocation of a massage training school to a 1,473 square foot tenant space located at existing commercial building. The training school, along with a massage therapy establishment called "A Perfect Day", were previously approved, with a Conditional Use Permit (PLN2003-00316) to operate at a different location. Currently, "A Perfect Day" is looking to expand and has, therefore, prompted the applicant to relocate. The expansion will trigger "A Perfect Day" to amend PLN2003-00316 under a separate application. Staff recommends approval of the Conditional Use Permit to allow the massage training school to relocate to Hastings Plaza.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North:	Vacant Commercial Land
South:	Athletic Club
East:	City Hall
West:	Spoons Restaurant (Vacant)

BACKGROUND AND PREVIOUS ACTIONS:

The site was originally approved in 1975 for a combination of commercial retail uses and professional offices (U-75-17).

A Zoning Administrator Finding was approved in February 2004 (PLN2004-00116) for a joint parking agreement between Hasting Plaza and Spoons Restaurant, which is now a vacant building, located on an adjacent parcel. The finding permitted a 5 parking space deficit for Spoons based on the notion that Spoons is generally busier during the evening hours while the tenants at Hastings Plaza operate primarily between 8am and 5pm. The five-year agreement between Hastings Plaza and Spoons allowed Hastings Plaza to lease 20 parking spaces from Spoons to accommodate medical uses. Upon termination of the 5-year parking agreement, Hastings Plaza is required to either renew the agreement or enter into an alternative agreement with another property owner with surplus parking and within a 400-foot radius of the property.

A parking variance was granted in August 2004 (PLN2004-00219) to Section 8-22003(1)(d) of the Fremont Municipal Code (FMC) to permit a reduction in the parking requirements for a Magnetic Resonance Imaging (MRI) facility. The MRI facility required 12 parking spaces based the FMC code requirement of one space for each 200 square feet of floor area for a medical facility. The variance, essentially, reduced the parking requirement to one space for each 400 square feet of floor area based on the fact that the MRI facility operates with fewer employees and customers than other medical uses. The variance was granted with a condition that the applicant not increase the square footage of the facility or add another MRI machine.

Minjian Hand Healing Institute was previously approved, with a conditional use permit (PLN2003-00316), to operate a massage training establishment at 39039 Paseo Padre Parkway. The use permit, essentially, permitted “A Perfect Day,” a massage therapy establishment, and Minjian to operate at the same location. Currently, “A Perfect Day” is looking to expand and has, therefore, prompted Minjian to relocate. The expansion will trigger an amendment to the Conditional Use Permit PLN2003-00316.

PROJECT DESCRIPTION:

The applicant is requesting approval for a Conditional Use Permit for a massage training establishment. The massage training establishment, Minjian Hand Healing Institute, will occupy 1,473 square feet of a second floor tenant space. The massage training establishment will employ two instructors and the class size is proposed to be no more than five students per session. Instruction will be given in a 260 square foot classroom. Training will take place in two practice rooms. One 390 square foot room will provide 3 body massage training tables and another 513 square foot area will provide 2-foot massage training chairs. A 310 square foot office will also be provided.

The massage training use will be conditioned so that students will not be permitted to administer massages to the public (Condition C-5). The applicant has indicated that the hours of operation for the training use will be from Monday through Friday from 9 A.M. to 7 P.M.

Students will only be permitted to receive training and practice administering massages in the area specifically designated for massage training (Condition C-6). Any revisions to the floor plan or entrance shall be conditioned to be reviewed by the Planning Director and the City License Authority (Condition D-2).7

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is CBD, Central Business District. The proposed project is consistent with the existing General Plan land use designation for the project site because the General Plan allows massage training establishments within the Central Business District land use designation. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

FUNDAMENTAL GOAL 1: A diversity of residential, recreational, cultural, employment, and shopping opportunities.

Analysis: The massage training establishment provides diverse recreational, cultural and employment opportunities.

LAND USE GOAL LU 2: Commercial development focused in well-defined commercial areas.

LAND USE GOAL LU 2.4: All service uses are allowed in the CBD.

Zoning Regulations:

As set forth in Section 8-21203 of the Fremont Municipal Code (FMC), vocational training or school service are allowed in the CBD subject to a Conditional Use Permit. Additionally, the use, as proposed and conforming to the recommended conditions of approval, would be in compliance with FMC Section 8-22148.05 (Massage Establishments).

Massage Establishment Ordinance Requirements:

Any massage establishment or massage training establishment located within the City of Fremont is required to obtain a valid license from the City's License Authority prior to operation. The City Licensing Authority has received the application for Minjian Hand Healing Institute.

Additional Regulations:

The massage training establishment is required to obtain a license from the California State Bureau for Private Postsecondary Vocational Education. The applicant has filed an application with the State Bureau.

Parking:

<u>Spaces Required</u>		<u>Spaces Available</u>	
General Office	20	On-site (automobile)	59
Medical Office	28	On-site (motorcycle)	5
MRI Facility	6	Off-site (by agreement)	20
This Use	4	Total	84
Total	58		

The total number of parking spaces required for the entire building is 58 spaces. The existing commercial office building provides 5 motorcycle and 59 automobile on-site parking spaces for the use of all tenants, and 20 off-site parking spaces that are currently leased by Hastings Plaza from now vacant Spoons Restaurant (as previously mentioned in this report). There is sufficient parking available for the proposed uses.

Circulation:

The existing site has good vehicular circulation and access because of its lot configuration. The parcel is accessible from Capitol Avenue and provides 4 drive aisles to access the parking spaces. The applicant is not proposing to make any changes to the site, circulation or parking.

Environmental Review:

The project is categorically exempt from environmental review per CEQA Guidelines Section 15301 as a minor alteration to an existing facility

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 77 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on March 30, 2006. A Public Hearing Notice was published by The Argus on March 30, 2006.

ENCLOSURES:

Exhibits: Exhibit "A" Site Plan and Floor Plan
 Exhibit "B" Findings and Conditions of Approval

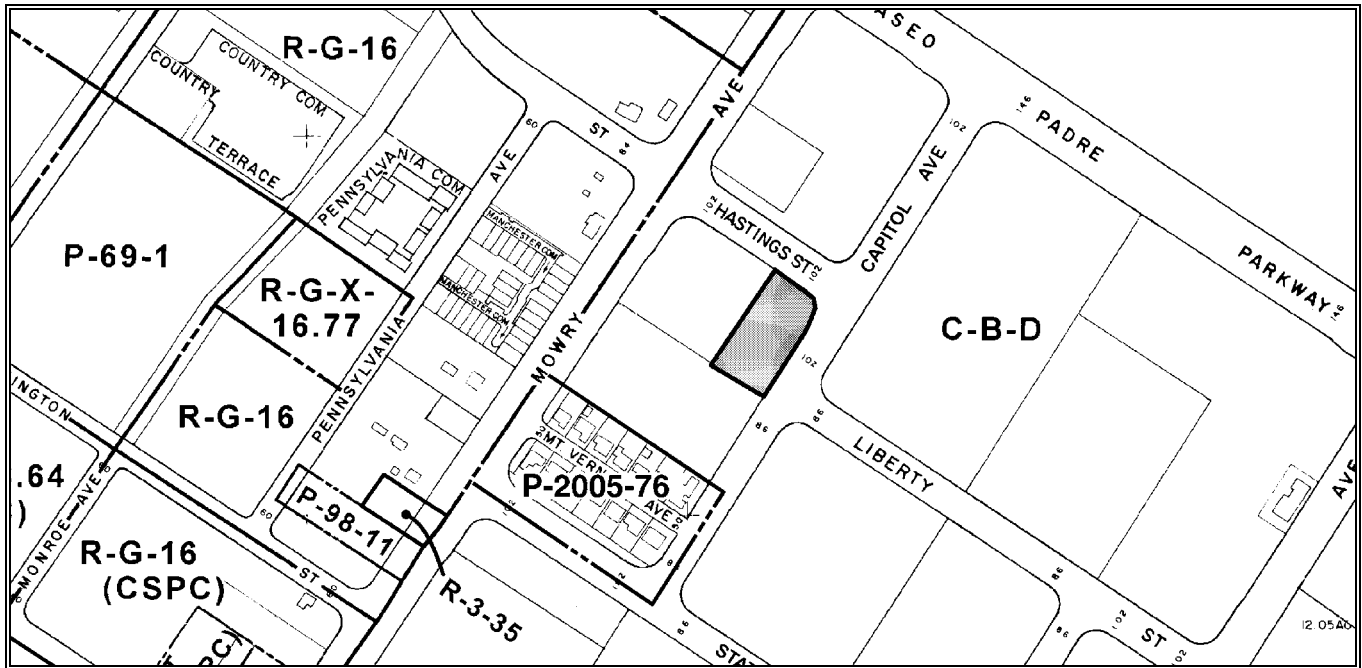
Informational Items:

1. Applicant Statement of Proposed Operation for Minjian Hand Healing Institute, dated January 26, 2006

RECOMMENDATION:

1. Hold public hearing.
2. Find the project categorically exempt from the California Environmental Quality Act under Section 15301 of the CEQA Guidelines as a minor alteration of an existing facility.
3. Find the Conditional Use Permit in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Approve Conditional Use Permit PLN2006-00193, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

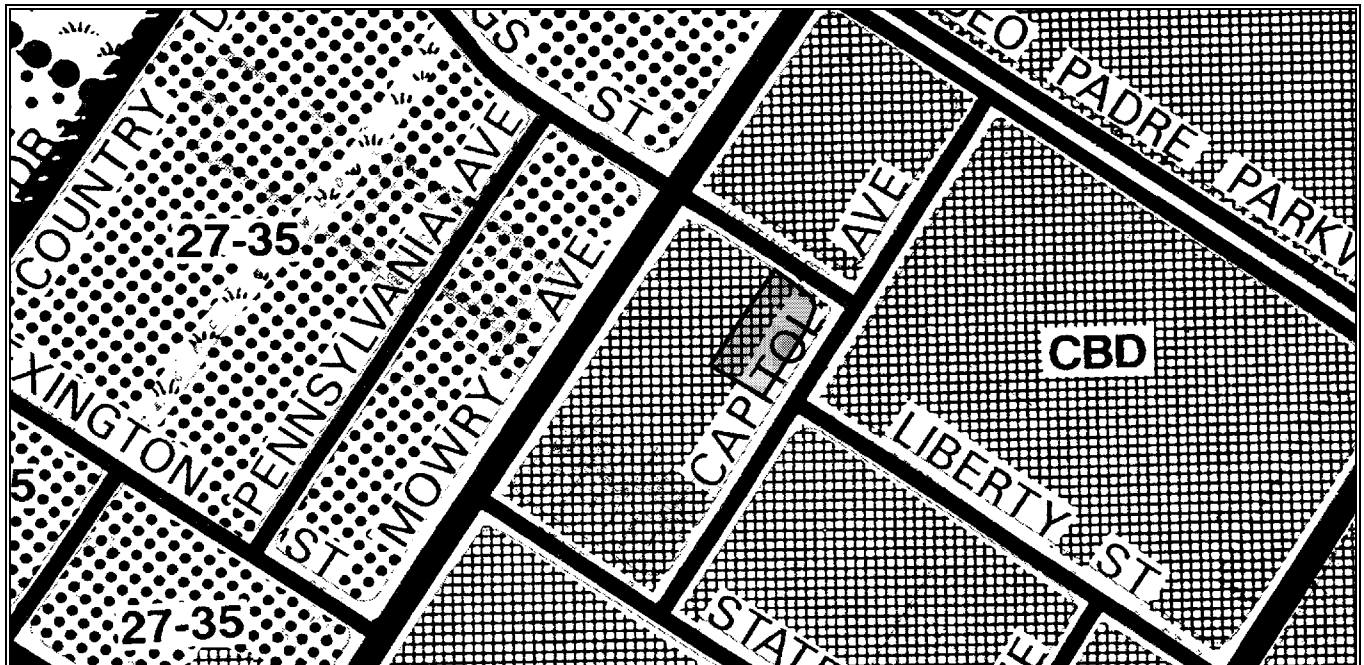


Exhibit "B"
Findings and Conditions of Approval
For PLN2006-00193

Findings:

- a. The site is suitable and adequate for the proposed use because there is sufficient on-site parking.
- b. The proposed use is consistent with the General Plan because massage training establishments contribute to the goal of establishing a diversity of recreational, cultural and employment opportunities.
- c. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the site has good access from Capitol Avenue.
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because it is not a direct competitor with any of the tenants in the commercial office building.
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because their activities will take place entirely within their leased tenant space.

General Conditions:

- A-1. The use shall operate in conformance with Exhibit "A".

Requirements Before Operation May Commence:

- B-1. Prior to commencement of the training use at this location, the licensee shall obtain, and operate only pursuant to, a Massage Establishment Permit issued by the City's License Authority.
- B-2. Prior to commencement of the training use at this location, the licensee is required to obtain a license from the California State Bureau for Private Postsecondary Vocational Education.
- B-3. Any employee acting as a massage instructor shall hold a valid Massage Technician Permit issued by the City's License Authority. This permit must be obtained before the employee begins work as a massage instructor.
- B-4. The licensee shall sign a copy of these conditions of approval, with Title IV, Chapter 7 of the Fremont Municipal Code acknowledging that the conditions and regulations have been read and understood.

Ongoing Requirements:

- C-1. The applicant shall remain in compliance, at all times, with the then current massage ordinance, Title IV, Chapter 7, Massage Establishments, Massage Technicians, and Outcall Massage Technicians of the Fremont Municipal Code.
- C-2. The applicant shall display the Massage Establishment License and the Massage Technician Permit of each massage instructor employed in the establishment in a conspicuous place in the facility in such a manner that it can be easily seen by any persons entering the establishment.
- C-3. Each massage instructor shall conspicuously display an identification badge, which shall contain his/her full name, photograph and permit expiration date while conducting massage training.
- C-4. The massage training establishment hours of operation, as stated by the applicant, shall be between the hours of 9:00 A.M. and 7:00 P.M. Any change to operation hours shall be subject to review and approval of the City License Authority, in conformance with the Massage Establishment Ordinance. No massage training shall be scheduled except during approved hours.
- C-5. Students will not be permitted to administer massages to the public at this establishment until all of the requirements have been completed for them to acquire a Massage Technician Permit from the City Licensing Authority.
- C-6. Massage training will only be permitted in the practice room and practice area occupied by Minjian Hand Healing Institute as shown on Exhibit "A". Any revisions to the entrance, floor plan or exterior shall be reviewed by the Planning Director and the City License Authority for approval. The Planning Director reserves the right to refer approval to the Planning Commission.
- C-7. The massage training establishment shall keep a daily register that lists the full names and addresses of all students, the dates and times of the training, type of massage training provided, and the name of the massage instructor or student who performed such training. All information entered in the register shall be kept on file at the premises and made available.

Change of Ownership, Modification and Revocation of Use Permits:

- D-1. In case of transfer of ownership, the new owner of the massage training establishment shall sign a Massage Establishment Ownership Transfer Agreement provided by the Zoning Administrator, acknowledging these Conditions of Approval, with Fremont Municipal Code Title IV, Chapter 7 attached as Exhibit "D" hereto. The signed agreement shall be filed with the Planning Division and with the Revenue and Taxation Division (Finance Department.) Failure to comply with this requirement may result in revocation of this approval by the Zoning Administrator or Planning Commission.
- D-2. Minor modifications to the Conditional Use Permit consistent with Title IV, Chapter 7 of the Fremont Municipal Code may be made subject to review and approval of the Planning Director and City License Authority if such modifications are in keeping with the intent of the original approval.

- D-3. If the use for massage training establishment ceases for 182 consecutive days, this approval shall be void. Thereafter, a new Planning Commission approval shall be required if the site is to be used again for a massage establishment.
- D-4. If the Planning Director finds evidence that Conditions of Approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of uses of adjacent or proximate property, or have a substantial adverse impact on the public facilities or services, the Director may refer this approval to the Planning Commission for review. If, upon such review, the Commission finds that any of the results stated above have occurred, the Commission may modify or revoke this approval.